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FILED

FEB 10 2010

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA6
UNITED STATES BANKRUPTCY COURT
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EASTERN DISTRICT OF CALIFORNIA
89 In re:) Case No. 09-45778-E-13L
10 RAJ SINGH,) Docket Control No. NLE-2
11 Debtor.)
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MEMORANDUM OF DECISION14 The court issues this Memorandum of Decision as its Findings
15 of Facts and Conclusions of Law in support of its order denying,
16 without prejudice, the Trustee's *Ex Parte* Application for Extension
17 of Time for Responses and Request for Continued Hearing.18 At the regularly scheduled hearing on January 19, 2010 the
19 court considered the Trustee's Motion to dismiss this Chapter 13
20 case filed by Raj Singh and the counter-motion filed by Raj Singh
21 to Change Trustee and to Stop Frauds Upon the Court. The hearings
22 on both motions were continued to March 9, 2010, with the court
23 setting briefing schedules for the parties in both Motions.24 On February 5, 2010, the Trustee filed an *ex parte* Application
25 to extend the briefing schedules for all parties. The Application
26 states that there was confusion in the Trustee's office and there
27 may be confusion between the parties as to the dates. It is
28 further stated in the Application that counsel for the Trustee
believes that Mr. Singh would not oppose the extension.

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1 Unfortunately, no evidence of these facts was presented with the
2 Application.

3 Whether substantive motions, such as the Trustee's Motion to
4 Dismiss or Mr. Singh's Motion to Change Trustee, or procedural
5 scheduling motions such as for the extension of time, both are
6 governed by the same rules. Motions submitted to the court must be
7 supported by evidence of the facts alleged therein. Commonly this
8 is done by declarations, wherein the person providing the evidence
9 does so under penalty of perjury, and thereby subject to all of the
10 responsibilities and obligations which go with providing such
11 testimony to the court.

12 While the court is cognizant that the justice system is
13 structure for disputes to be resolved on their merits and
14 procedural time lines may be modified to facilitate that end, the
15 court cannot modify the briefing schedule solely on the unsupported
16 Application of a party.

17 The court has denied the Application without prejudice. The
18 Trustee and Mr. Singh may submit a stipulation to continue the
19 hearing and reset the briefing schedules. If such stipulation
20 cannot be reached, either party may file a Motion to have the
21 hearing continued, and support that motion with competent evidence
22 in support thereof, which commonly includes information of the
23 efforts to obtain a stipulation, why the continuance is needed, and
24 how the continuance will facilitate the judicial process of the
25 fair and final determination of issues.

26 Dated: 2/9/2010
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RONALD H. SARGIS
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

CERTIFICATE OF MAILING

The undersigned deputy clerk in the office of the United States Bankruptcy Court for the Eastern District of California hereby certifies that a copy of the document to which this certificate is attached was mailed today to the following entities listed at the address shown on the attached list or shown below.

Raj Singh
PO Box 162783
Sacramento, CA 95816

Lawrence Loheit
PO Box 1858
Sacramento, CA 95812-1858

Office of the U.S. Trustee
Robert T Matsui United
States Courthouse
501 I Street, Room 7-500
Sacramento, CA 95814

DATED: 02/10/10

By: Marilyn Rigsby
Deputy Clerk

EDC 3-070 (New 4/21/00)